IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1006 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHOKKUMAR MULCHANDDAS PATEL & ANR
Versus
THE STATE OF GUJARAT & ANR

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Appearance :
MR BP DALAL for Applicants
MR AY KOGJE APP for Respondent No.1
DS AFF.NOT FILED (R) for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 14/07/2006

ORAL JUDGMENT

1. Heard learned advocate Mr.B.P.Dalal for the applicants, learned APP Mr.A.Y.Kogje for the respondent No.1 – State of Gujarat and learned advocate Mr.Bhavik Patel for learned advocate Mr.A.M.Parekh, who submits that he appears for respondent No.2 – Yaminiben.

2. This Special Criminal Application is preferred for quashing FIR bearing C.R.No.I-42/2006 registered before Bhachau Police Station, District: Kutch on 19.03.2006 filed by the present respondent No.2 against the applicants. The applicant No.1 is husband, applicant No.2 is father of applicant No.1 and respondent No.2 is wife. In the present proceedings, learned advocates for the applicants and respondent No.2 make a statement that settlement has been arrived at between the parties in respect of FIR impugned in this petition. On affidavit in this respect filed by the respondent NO.2 on 10.04.2006 at Visnagar before Executive

Magistrate is also placed on record wherein it is stated that the complaint came to be filed by respondent No.2 in undue haste and on account their happy marriage future life, she now does not want to pursue the said FIR.

3. Having regard to the statement made by learned advocates for the parties and having regard to the affidavit placed on record, it appears that though the offence charged in the said FIR are not compoundable, but exercising powers under Section 482 of the Code of Criminal Procedure, the FIR in question can be quashed in the interest of future relationship of the parties. This view is fortified by the ratio laid down by the Apex Court in the matter of **B. S. JOSHI AND OTHERS Vs. STATE OF HARYANA AND ANOTHER**, as reported in **(2003) 4 SCC 675**, wherein a complaint filed by wife under Section 498(A) of the Indian Penal Code came to be quashed on account of settlement arrived at between the husband and wife.

4. In view of the above, this application is

allowed and FIR filed by the present respondent No.2 registered as C.R.No.I-42/2006 before the Bhachau Police Station, District: Kutch on 19.03.2006 along with other proceedings taken in pursuance of the said FIR stands set aside and quashed. Rule is made absolute to the above extent. Direct service is permitted.

[J. R. VORA,J.]

(vijay)